



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,792	11/02/2001	David Carroll Challener	RPS920010134US1	6064
45211	7590	01/19/2007	EXAMINER	
KELLY K. KORDZIK WINSTEAD SECHREST & MINICK PC PO BOX 50784 DALLAS, TX 75201			PYZOWCHA, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2137	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
2 MONTHS	01/19/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

MAILED

Application Number: 10/016,792

JAN 19 2007

Filing Date: November 02, 2001

Technology Center 2100

Appellant(s): CHALLENER, DAVID CARROLL

Robert A. Voigt, Jr.
Reg. No. 47,159
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/02/2006

appealing from the Office action mailed 04/14/2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6434621	PEZZILLO et al.	08-2002
5243652	TEARE et al.	09-1993
20020066034	SCHLOSSBERG et al.	05-2002
20030097654	FRANKEN et al.	05-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pezzillo et al (US 6434621), in view of Teare et al (US 5243652).

As per claims 1, 6 and 11, Pezzillo et al discloses encoding a radio broadcast into digital packets of information; transmitting said digital packets of information over the Internet (see column 5 lines 60-67).

Pezzillo et al fails to disclose encrypting the packets to restrict access to a defined distribution area and broadcasting the decryption key to the defined area.

However, Teare et al teaches encrypting data and restricting access to said data to a defined distribution area and broadcasting a key (see figure 1 and column 2 lines 11-63).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Teare et al's method of restriction access to a specific location using encryption in Pezzillo et al's Internet radio broadcasting system.

Motivation to do so would have been to provide location-sensitive control over remote or mobile systems in a secure manner, without requiring secure facilities for the remote or mobile node (see column 1 lines 34-37).

As per claims 2, 7, and 12, the modified Pezzillo et al and Teare et al system discloses receiving said decryption key by one or more users of computer systems located approximately within said defined distribution area of said broadcaster (see Teare et al column 2 lines 11-63).

As per claims 3, 8, and 13, the modified Pezzillo et al and Teare et al system discloses decrypting said encrypted digital packets of information using said decryption key (see Teare column 2 lines 36-49).

As per claims 4, 9, and 14, the modified Pezzillo et al and Teare et al system fails to disclose reproducing said decrypted

digital broadcast by an audio transducer. However, Official Notice is taken that at the time of the invention it would have been obvious to a person of ordinary skill in the art to use an audio transducer to reproduce the digital broadcast. Motivation to do so would have been to allow the receiver to hear the digital broadcast.

As per claims 5, 10, and 15, the modified Pezzillo et al and Teare et al system discloses the key is broadcast using electromagnetic waves (see Teare et al column 2 lines 11-63).

2. Claims 17-18, 20-21 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franken et al as applied to claims 16, 19 and 22 above, and further in view of Schlossberg et al (US 20020066034).

As per claims 17-18, 20-21 and 23-24, Franken et al discloses transmitting a broadcast over the Internet within a defined distribution area, comprising the steps of: receiving a request to transmit said broadcast from a requester; determining an approximate physical location of said requester (see paragraph 19 lines 1-12); and transmitting said broadcast over the Internet to said requester if said requester is physically located approximately within said defined distribution area (see paragraph 19 last 7 lines); and not transmitting the broadcast if the requester is not located in the location (see paragraph 17).

Franken et al fails to disclose the step of determining said approximate physical location of said requester comprises the steps of: capturing an Internet Protocol of said requester; converting said captured Internet Protocol of said requester into a computer name; and performing a trace of said request.

However, Schlossberg et al teaches these limitations (see paragraph 54).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Schlossberg et al's method of tracing to determine the location in the Franken et al system.

Motivation to do so would have been to determine the physical location of a device on the Internet (see paragraph 54).

(10) Response to Argument

A. Pezzillo in view of Teare

1. Prior Art Rejections

a. Appellant argues Teare fails to disclose a decryption key is broadcast within a defined distribution area of a broadcaster.

With respect to this argument Teare discloses that the central facility may authorize the viewing of encrypted video signals when the plane is over 25,000 ft. and over a pre-

designated area (see column 2 lines 36-42). This authorization is accomplished by transmitting (broadcasting) a decryption key to the plane (see column 2 lines 46-49). Since the plane is over the pre-designated area the key is broadcasted within the defined distribution area. Furthermore, as described in column 2 lines 58-62, Teare discloses that there can be multiple mobile nodes and therefore multiple defined distribution areas which each must be broadcasted a key. Therefore, Teare teaches a decryption key is broadcast within a defined distribution area of a broadcaster.

Appellant further argues neither Pezzillo nor Teare teaches encrypting digital packets.

With respect to this argument, Pezzillo teaches converting radio broadcasts into packets and Teare when combined with Pezzillo, as above, teaches storing encrypted packets, which contain the converted radio broadcasts. Since the packets are stored and already encrypted they inherently had to have had a step of encrypting these packets. Therefore, the combination of Pezzillo and Teare teaches encrypting digital packets.

b. - d. Appellant argues that claims 2-5, 7-10 and 12-25 are patentable for the reasons put forth above. This argument is moot in view of the above response.

e. Appellant argues Pezzillo in view of Teare fails to disclose "receiving said decryption key by one or more users of the computer systems located within said defined distribution area of said broadcaster".

With respect to this argument Teare teaches receiving a decryption key at a computer system located within a defined distribution area of the broadcaster (see column 2 lines 36-49 and column 3 lines 36-38). Since the plane is over the pre-designated area the key is broadcasted and received within the defined distribution area. Each person on the plane is a user of the computer system because they are able to use the decrypted material and since the decryption key is combined in someway with the encrypted material to make it usable, the users are receiving the decryption key and since the users are on the plane that is over the pre-designated area the key is broadcasted and received within the defined distribution area, the users are receiving the key within the defined distribution area.

f. Appellant argues Pezzillo in view of Teare fails to disclose the decryption key is transmitted via electromagnetic waves within the defined distribution area of the broadcaster.

With respect to this argument all radio waves are electromagnetic waves and Teare teaches the use of radio waves

to communicate between the remote node and the central facility (see column 3 lines 12-14). Furthermore, Teare discloses that the central facility may authorize the viewing of encrypted video signals when the plane is over 25,000 ft. and over a pre-designated area (see column 2 lines 36-42). This authorization is accomplished by transmitting (broadcasting) a decryption key to the plane (see column 2 lines 46-49). Since the plane is over the pre-designated area the key is broadcasted within the defined distribution area. Furthermore, as described in column 2 lines 58-62, Teare discloses that there can be multiple mobile nodes and therefore multiple defined distribution areas which each must be broadcasted a key. Therefore, Teare teaches a decryption key is broadcast within a defined distribution area of a broadcaster using electromagnetic waves.

2. Motivation for making the suggested modification

Appellant argues the motivation provided for modifying Pezzillo with the teachings of Teare is insufficient.

With respect to this argument, the motivation given as, "to provide location-sensitive control over remote or mobile systems in a secure manner, without requiring secure facilities for the remote or mobile node" clearly shows that one would be motivated to combine Teare with Pezzillo in order to control the mobile system which contains the content in order to control the

content. The controlling content prevents the content from be accessed by unauthorized nodes (see Teare column 1 line 67 through column 2 line 10). Furthermore, Pezzillo suggested securing the information by securing the connection (see column 8 lines 64-67). Therefore, one of ordinary skill in the art would be motivated to encrypt and therefore control (secure) the content of Pezzillo in the method taught by Teare.

3. Motivation for dependent claims

Appellant argues that no motivation was given for the limitations of the dependent claims taught by Teare.

With respect to this argument, each motivation for combining Teare to teach these limitations was the same as in the independent claim and was not repeated for each dependent claim. Appellant further traverses the motivation given as, "to provide location-sensitive control over remote or mobile systems in a secure manner, without requiring secure facilities for the remote or mobile node" clearly shows that one would be motivated to combine Teare with Pezzillo in order to control the mobile system which contains the content in order to control the content. The controlling content prevents the content from be accessed by unauthorized nodes (see Teare column 1 line 67 through column 2 line 10). Furthermore, Pezzillo suggested securing the information by securing the connection (see column

8 lines 64-67). Therefore, one of ordinary skill in the art would be motivated to encrypt and therefore control (secure) the content of Pezzillo in the method taught by Teare and also to transmit, receive and decrypt the content using the key as put forth in the dependent claims.

4. Analogous art

Appellant argues that Teare is not analogous art.

With respect to this argument Appellant states that Teare is not pertinent to the particular problem with which the inventor was concerned because Teare does not address the problem of providing information to a small distribution base. Examiner respectfully disagrees based on the teaching in Teare column 1 line 67 through column 2 line 10, where Teare states the invention relates to a system for providing authorization to view encrypted programming based on location information. Therefore, Teare is related to the particular problem with which the inventor was concerned because Teare address the problem of providing information to a small distribution base.

5. Motivation for claims 4, 9, and 14

Appellant argues the Examiner has relied upon his own subjective opinion for the motivation given.

With respect to this argument, the Official Notice was taken and the Examiner has relied upon the knowledge of what one

of ordinary skill in the art would have known. This is evidenced by the dictionary definition from the FOLDOC reference given in the final rejection. This definition states that a transducer is "A device for converting sound, temperature, pressure, light or other signals to or from an electronic signal." Therefore an audio transducer would convert electronic signals to sound. So one of ordinary skill in the art would have known to use an audio transducer in an Internet radio system in order to convert the electrical signals broadcast in order for the receiver to hear the radio broadcast.

B. Franken in view of Schlossberg

Appellant argues there is insufficient motivation to combine Schlossberg with Franken.

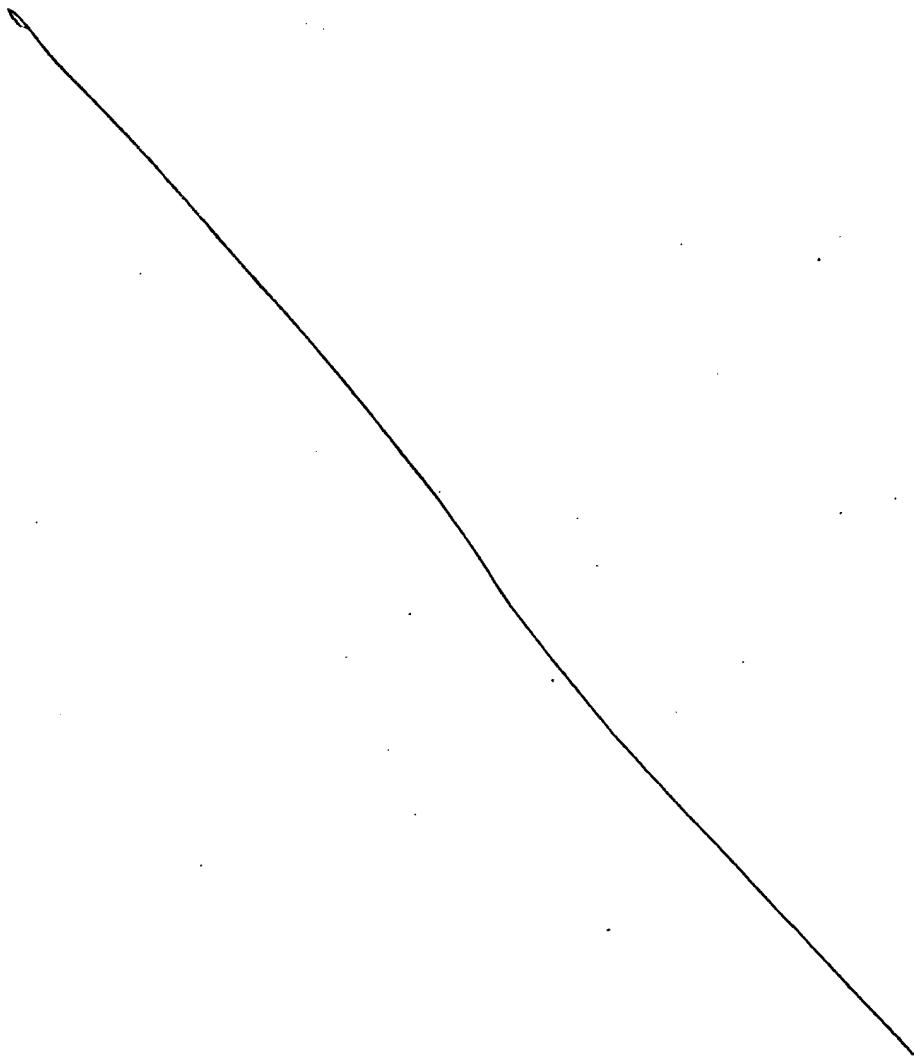
With respect to this argument, the motivation given as, "to determine the physical location of a device on the Internet" is taught in paragraph 54 on page 6 lines 20-28 where it teaches using the information gathered to determine the physical location. Further evidence as to why one of ordinary skill in the art would have been motivated to combine the references as put forth in the rejection are found in paragraph 54 on page 6 lines 17-20 where the tracing can be done without knowledge of this tracing. The Franken system uses geographic information from a client or server to protect content based on this

Art Unit: 2137

geographic information. One of ordinary skill in the art would recognize that using the tracing of Schlossberg would prevent a client in the Franken system from sending spoofed geographic location information in order to receive protected content.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.



For the above reasons, it is believed that the rejections
should be sustained.

Respectfully submitted,

Michael Pyzocha

January 12, 2007

mp

Gilbert Barrón Jr

GILBERTO BARRÓN JR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Conferees:

Gilbert Barron

GRJ

Benjamin Lanier

BL